REMARKS

This application has been reviewed in light of the final Office Action dated July 15, 2008. Claims 1-69, 71 and 72 are pending, with claims 1, 23, 46 and 58 being in independent form.

Information Disclosure Statement filed on September 12, 2003

It is contended in the final Office Action that the information disclosure statement filed with the application on September 12, 2003 purportedly do not comply with 37 C.F.R. §1.98(a)(2). It is alleged that reference JP2956390 listed in the Form PTO-1449 annexed to the information disclosure statement filed with the application on September 12, 2003 did not include a English translation of reference JP2956390.

However, 37 C.F.R. §1.98 does not require applicant to submit an English translation of each foreign language reference. The Examiner is respectfully referred to 37 C.F.R. §1.98(a)(3)(i) which is reproduced below:

> (3)(i) A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. The concise explanation may be either separate from applicant's specification or incorporated therein.

Thus, 37 C.F.R. §1.98 merely requires applicant to submit concise explanation of the relevance, and it is well-established that such concise explanation requirement can be met by submitting an English abstract of the foreign language reference.

As previously pointed out by applicant in the record, reference JP2956390 is the Japanese patent granted based on Japanese application no. 04-302095 which was also published as Japanese application publication no. 06-150012. While the English language abstract submitted with Japanese reference JP2956390 is indicated on a face of the abstract to be "06-150012", applicant submits that such abstract qualifies as the required concise explanation for Japanese reference JP2956390 (it is noted that no English abstract is provided by the Japanese Patent Office specifically for JP2956390). Therefore, the information disclosure statement filed on September 12, 2003 does not fail to comply with 37 C.F.R. §1.98.

The Examiner is respectfully requested to consider reference JP 2956390 in view of such English language abstract and appropriately indicate in the record that reference JP2956390 has been considered by the Examiner.

Rejections under 35 U.S.C. §103(a)

Claims 1-13, 17-22, 46-49, 55-61 and 67-69 and 71 were rejected under 35 U.S.C. §103(a) as purportedly unpatentable over U.S. Patent No. 6,456,298 to Kunimasa in view of Crosby (US 2005/0052469 A1). Claims 23-35, 39-45 and 72 were rejected under 35 U.S.C. §103(a) as purportedly unpatentable over Kunimasa in view of Crosby and further in view of U.S. Patent No. 6,100,998 to Nagao. Claims 14, 50-52 and 62-64 were rejected under 35 U.S.C. §103(a) as purportedly unpatentable over Kunimasa in view of Cosby and further in view of Kato (US 2002/0132665 A1).

Applicant has carefully considered the Examiner's comments and the cited art and respectfully submits that independent claims 1, 23, 46 and 58 are patentable for at least the reason that none of the cited references discloses or suggests the aspect of the present application of making ***a graphical drawing instruction invalid if it is determined that a drawing process*** corresponding to the graphical drawing instruction to be made invalid ***can be omitted***, wherein ***the drawing process corresponding to the graphical drawing instruction is not performed when the graphical drawing instruction is made invalid***.. Such aspect (as well as other features) of the present application are included in independent claims 1, 23, 46 and 58.

As previously pointed out in the record and as acknowledged in the final Office Action, Kunimasa does not disclose or suggest, however, such aspect of the present application.

The Office Action relies on Crosby to cure such deficiencies of Kunimasa. However, such reliance is misplaced since Crosby is not relevant to the claimed subject matter of the present application.

Crosby, as understood by applicant, proposes an approach for rendering a low-resolution thumbnail image (such as may be suitable for a low-resolution display), wherein the low-resolution image is generated with reference to a digital negative (the original high-resolution image) as well as an edit list (list of image operations that are to be performed to the digital image) linked to the original digital image. An image object is distributed which includes a proxy image that represents a fully rendered image of the digital negative with the image operations specified by the edit list applied at some specific resolution.

Crosby ([0073]-[0079]) further proposes configuring an image processor to perform additional operations indicated by one or more other edit lists (that is, not the one linked to the

digital negative), further modify the original proxy image (that is, resulting from applying the linked edit list to the digital negative) to form a resulting proxy image, and if the image processor cannot process the commands specified in the additional edit lists for any reason, the image processor directly outputs the original proxy image.

It is contended in the final Office Action (page 7) as follows:

> "... Crosby teaches a judging unit to judge whether or not the instructed editing operation is suitable for each of the plurality of items of image data based on the respective read data-formats. Using the broadest reasonable interpretation, the Examiner concludes Crosby's judging unit which judges whether or not the instructed editing operation is suitable for each of the plurality of items of image data ***is analogous with*** the current invention's determination unit determines that the drawing process can be omitted, and makes other graphical drawing instructions valid because both units determines if a drawing/editing instructions is valid or invalid and afterward executes the valid instructions."

Applicant traverses such contention and submits that the Office Action does not set forth a ***prima facie*** case of obviousness.

It is well-established as a matter of law that obviousness under 35 U.S.C. §103 cannot be based on whether the subject matter of a reference is ***analogous or equivalent*** to the claimed subject matter.

Thus, the rejections here are based on faulty application of the law under 35 U.S.C. §103, and such error is fatal to the merits of the rejections.

Further, the claimed subject matter here would not have been obvious from a combination of Crosby with Kunimasa.

Crosby does not involve graphical drawing instructions. Indeed, Crosby refers to raster images and does not refer at all to graphical elements or graphical drawing instructions. Therefore, Crosby is **NOT** in the relevant art.

Further, the statement quoted above from the Office Action is artificially contrived. There is **absolutely no** reference in Crosby to a judging unit or judging operations.

In the approach proposed in Crosby, if an image processor cannot process the commands specified by the edit list processor, the image processor directly outputs the original proxy image. The image processor of Crosby, which directly outputs an original inputted proxy image in some instances, does not, however, make ***a graphical drawing instruction invalid if it is determined***

that a drawing process corresponding to the graphical drawing instruction to be made invalid ***can be omitted***, wherein ***the drawing process corresponding to the graphical drawing instruction is not performed when the graphical drawing instruction is made invalid***.

As noted above, Crosby does not involve graphical drawing instructions at all, and one skilled in the art would ***NOT*** have found Crosby to be relevant to processing of graphical drawing instructions or the claimed subject matter of the present application.

Neither Kunimasa nor Crosby nor the other cited references (including Kato and Nagao which were previously discussed in the record) discloses or suggests the above-mentioned aspects of the present application.

Applicant submits that the cited art, even when considered in combination with common sense and common knowledge to one skilled in the art, simply does not render obvious the above-mentioned aspect of the present application.

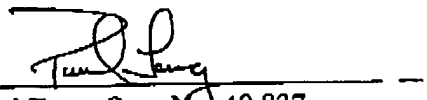
Accordingly, applicant respectfully submits that independent claims 1, 23, 46 and 58, and the claims depending therefrom, are patentable over the cited art.

In view of the remarks hereinabove, applicant submits that the application is now in condition for allowance, and earnestly solicits the allowance of the application.

If a petition for an extension of time is required to make this response timely, this paper should be considered to be such a petition. The Patent Office is hereby authorized to charge any fees that are required in connection with this amendment and to credit any overpayment to our Deposit Account No. 03-3125.

If a telephone interview could advance the prosecution of this application, the Examiner is respectfully requested to call the undersigned attorney.

Respectfully submitted,



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